

立法會
Legislative Council

LC Paper No. CB(1) 1538/08-09
(These minutes have been seen
by the Administration)

Ref : CB1/SS/4/08/1

**Subcommittee on
Product Eco-responsibility (Plastic Shopping Bags) Regulation**

**Minutes of third meeting
held on Wednesday, 11 March 2009, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Albert CHAN Wai-yip
Hon Vincent FANG Kang, SBS, JP
Hon WONG Ting-kwong, BBS
Hon KAM Nai-wai, MH
Hon CHAN Hak-kan
Hon Tanya CHAN
- Members absent** : Hon LEE Wing-tat
Hon Andrew LEUNG Kwan-yuen, SBS, JP
- Public officers attending** : Environmental Protection Department

Mr Albert LAM, JP
Deputy Director of Environmental Protection

Mr Alfred LEE
Assistant Director (Waste Management Policy)

Mr Kenneth CHAN
Principal Environmental Protection Officer (Territorial Control)

Mr TE Chi-wang
Senior Administrative Officer (Waste Management Policy Division)

Department of Justice

Miss Shandy LIU
Senior Government Counsel
Law Drafting Division

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mrs Mary TANG
Senior Council Secretary (1)2

I. Meeting with the Administration

- (LC Paper No. CB(1) 966/08-09(18) — List of follow-up actions arising from the discussion at the meeting on 19 February 2009
- LC Paper No. CB(1) 966/08-09(19) — Administration's response to CB(1) 966/08-09(18)
- LC Paper No. CB(1) 966/08-09(20) — Assistant Legal Adviser's letter dated 25 February 2009 to the Administration
- LC Paper No. CB(1) 966/08-09(21) — Assistant Legal Adviser's letter dated 27 February 2009 to the Administration)

The Subcommittee deliberated (Index of proceedings attached at **Annex**).

2. The Administration was requested to –

- (a) relay to the Secretary for the Environment members' request for his presence at the next Subcommittee meeting on 13 March 2009 to discuss the feasibility of extending the scope of the environmental levy scheme on plastic shopping bags (PSB) to newspaper and magazine stalls;
- (b) state it clearly in Part B3 of the draft application for registration that branch business registration might be accepted as proof of third party operation. To also consider conducting a mock trial for the affected trades to complete the draft specified forms with a view to identifying any practical difficulties;

- (c) consider providing incentives to encourage more qualified retailers to register as registered retailers. Otherwise, some retailers might try to get round the environmental levy by providing consumers with paper bags or plastic bags not subject to control;
- (d) review the phrase “not properly made” in proposed sections 3, 6 and 8 of the Regulation as this might give the Director power which would be wider than necessary;
- (e) specify in proposed sections 4, 7 and 9 the timeframe within which the Director should require further information and/or make her decision on the approval/rejection of application for registration;
- (f) advise the possible effects on registration if a registered retailer failed to give the Director notice of any change in information in relation to his application for registration within the specified period under proposed section 5 due to unawareness of such change;
- (g) provide all draft specified forms, including application for deregistration, to be made under the Regulation; and
- (h) provide the draft amendments to the Regulation before the next Subcommittee meeting.

II. Any other business

3. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1
Legislative Council Secretariat
8 May 2009

**Subcommittee on
Product Eco-responsibility (Plastic Shopping Bags) Regulation**

**Proceedings of the meeting
on Wednesday, 11 March 2009, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000125 - 000218	Chairman	Opening remarks	
<i>Agenda Item I – Meeting with the Administration</i>			
000219 - 000546	Chairman Administration Miss Tanya CHAN	<p>Discussion on the Administration's response to the list of follow-up actions arising from discussion at the meeting on 19 February 2009 (LC Paper No. CB(1) 966/08-09(19))</p> <p>Miss Tanya CHAN's enquiries on the publicity efforts to alert tourists of the levy scheme on plastic shopping bags (PSB)</p> <p>Administration's response that liaison with the Tourism Commission would be made to explore possible ways to alert tourists on the levy scheme</p>	
000547 - 001324	Chairman Administration Mr Vincent FANG	<p>Discussion on third party operation</p> <p>Mr Vincent FANG's concerns -</p> <p>(a) need for retailers to be properly advised on how to complete the specified form for registration; and</p> <p>(b) how to define third party operators</p> <p>Administration's response -</p> <p>(a) a meeting would be held with the affected retailers on 16 March 2009 to go through the registration procedures and requirements; and</p> <p>(b) third party operators would be those who operated independently from the host retailer</p>	The Administration to consider conducting a mock trial for the affected trades to complete the draft specified forms with a view to identifying any practical difficulties
001325 - 002110	Chairman Mr WONG Ting-kwong Administration	Mr WONG Ting-kwong's concern that the requirement for third party operators to provide separate business	

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		<p>registrations would pose practical difficulties</p> <p>Administration's response that third party operators would need to prove that it was operating independently from its host retailer and hence a separate business registration would be desirable</p>	
002111 - 002654	Chairman Mr KAM Nai-wai Administration	<p>Mr KAM Nai-wai's enquiries -</p> <p>(a) any grace period for registration; and</p> <p>(b) whether it was common for third party operators to have separate business registrations</p> <p>Administration's response -</p> <p>(a) prescribed retailers would be given about three months to register before the levy scheme came into operation;</p> <p>(b) staff would pay visits to prescribed retailers, if requested, to provide necessary assistance, including registration and identification of third party operators; and</p> <p>(c) there were some third party operators who were currently operating under separate business registrations</p>	
002655 - 003552	Chairman Mr Vincent FANG Administration	<p>Mr Vincent FANG's concerns -</p> <p>(a) consignment counters selling consigned goods at host retailers might not have separate business registrations; and</p> <p>(b) retailers might get around the levy scheme by providing paper bags or plastic bags not subject to control</p> <p>Administration's response that third party operators would need to satisfy the five conditions as set out in the specified forms if they proposed to</p>	

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		continue to provide free PSB within qualified retail outlets	
003553 - 004427	Chairman Mr WONG Ting-kwong Assistant Legal Adviser 5 (ALA5) Administration	Discussion on need for separate business registrations for third party operators Administration's response - (a) to avoid confusion to the public, third party operators wishing to distribute free PSB would need to prove that they were operating independently from their host retailers by providing separate business registrations and satisfying the conditions as set out in the specified forms; (b) branch registration would be considered acceptable as proof of third party operation; and (c) an additional category of exemption criteria for third parties in registered retail outlets would be explicitly provided in the Regulation	The Administration to state it clearly in Part B3 of the draft application for registration that branch business registration might be accepted as proof of third party operation.
004428 - 004725	Chairman Mr Vincent FANG Administration	Discussion on the criteria for exemption as set out in proposed section 8 of the Regulation	
004726 - 005406	Chairman Mr Albert CHAN Administration ALA5	Mr Albert CHAN's enquiries/views - (a) the Administration's position on the trade's request for extending the levy scheme on PSB to newspaper and magazines stands; (b) whether members could initiate amendments to extend the coverage of the levy scheme to include newspaper and magazines stands; and (c) the Secretary for the Environment (SEN) should be invited to the next meeting on 13 March 2009 to discuss the feasibility of extending the scope of the levy scheme to newspaper and magazines stands	The Administration to relay to SEN members' request for his presence at the next Subcommittee meeting on 13 March 2009 to discuss the feasibility of extending the scope of the environmental levy scheme PSB to newspaper and magazine stalls

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		<p>Administration's response -</p> <p>(a) the proposed extension would not be possible at this stage as this would involve amendments to the main Ordinance; and</p> <p>(b) it would support voluntary schemes for reduction in PSB usage by retailers not yet covered by the levy scheme</p>	
005407 - 005834	Chairman Administration	<p>Clause-by-clause examination of the Regulation</p> <p>Section 1 - Commencement Section 2 - Interpretation</p>	
005835 - 010756	Chairman Mr Albert CHAN Administration ALA5	<p>Section 3 - Application for registration of prescribed retailers</p> <p>Discussion on the time frame for determination of application for registration</p> <p>Administration's explanation on the performance pledge for processing a new application for registration within 21 working days, and an application for registration of a new outlet under a registered retailer in 10 working days</p>	
010757 – 011429	Chairman Mr Vincent FANG Administration	Mr Vincent FANG's concerns about the plight of prescribed retailers who were not allowed to provide PSB during the interim pending approval of their applications for registration. They might need to provide other forms of bags not subject to control if they wished to operate during the interim	
011430 - 011658	Chairman Mr KAM Nai-wai Administration	<p>Mr KAM Nai-wai's comments on the Chinese rendition of section 3(4)</p> <p>Administration's explanation that the wording used in the section referred to was commonly adopted in other legislation</p>	
011659 - 012346	Chairman Administration Mr Vincent FANG	Section 4 - Determination of application for registration	The Administration to consider providing

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		<p>Mr Vincent FANG's request -</p> <p>(a) the need for incentives to encourage more qualified retailers to register as registered retailers; and</p> <p>(b) the procedures should be streamlined to facilitate registration</p> <p>Administration's explanation that it would take a proactive role in facilitating the registration process</p>	<p>incentives to encourage more qualified retailers to register as registered retailers. Otherwise, some retailers might try to get round the environmental levy by providing consumers with paper bags or plastic bags not subject to control</p>
012347 - 012801	<p>Chairman Mr KAM Nai-wai Administration</p>	<p>Mr KAM Nai-wai's request for including a timeframe for determination of application for registration, deregistration and exemption under proposed sections 4, 7 and 9 respectively</p>	<p>The Administration to specify in proposed sections 4, 7 and 9 the timeframe within which the Director should require further information and/or make her decision on the approval/rejection of application for registration</p>
012802 - 013201	<p>Chairman Administration ALA5</p>	<p>Discussion on ALA5's letter to the Administration (LC Paper No. CB(1) 966/08-09(20) and the Administration's response (LC Paper No. CB(1) 1011/08-09(01)) regarding the need to allow applicants an opportunity to respond to the Director's intention of rejection to application before such decision became final</p>	
013202 - 013429	<p>Chairman Mr Vincent FANG Administration</p>	<p>Section 5 - Change of information after registration</p> <p>Section 6 - Application for deregistration of registered retailers or registered retail outlets</p> <p>Mr Vincent FANG's concerns about -</p> <p>(a) the penalties for failure to notify any change of information within 30 days after its occurrence; and</p>	

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		<p>(b) the administrative cost incurred by prescribed retailers in complying with the levy scheme</p> <p>Administration's explanation that it was prepared to look into the associated administrative cost in the context of the review of the scheme</p>	
013430 - 015404	Chairman Administration	<p>Chairman's concerns -</p> <p>(a) about the possible effects on registration if a registered retailer failed to give the Director notice of any change in information in relation to his application for registration within the specified period under proposed section 5 due to unawareness of such change; and</p> <p>(b) need to review the phrase "not properly made" in proposed sections 3, 6 and 8 of the Regulation as this might give the Director power which would be wider than necessary</p> <p>Administration's response -</p> <p>(a) section 9 of the main Ordinance had provided that it would be an offence to provide false information in purported compliance with the Ordinance; and</p> <p>(b) the phrase "not properly made" in proposed section 3(4) was meant to tie in with the same phrase in section 4(2)</p>	<p>The Administration to -</p> <p>(a) advise the possible effects on registration if a registered retailer failed to give the Director notice of any change in information in relation to his application for registration within the specified period under proposed section 5 due to unawareness of such change; and</p> <p>(b) review the phrase "not properly made" in proposed sections 3, 6 and 8 of the Regulation as this might give the Director power which would be wider than necessary</p>
015405 - 020033	Chairman Administration ALA5	<p>Section 7 - Determination of application for deregistration</p> <p>ALA5's enquiry on the burden of proof in respect of application for deregistration, and the necessary requirements to be fulfilled for the</p>	<p>The Administration to provide all draft specified forms, including application for deregistration, to be made under the</p>

Time marker	Speaker	Subject(s)	Action required
		application for deregistration Administration's explanation - (a) the burden of proof was applied in legal proceedings with a disputed fact and as such, it would not come into play at the stage of application, and (b) the proofs to be submitted for the application for deregistration would be set out in the specified forms	Regulation as well as the draft amendments to the Regulation before the next Subcommittee meeting